



*Geri D. Huser, Chair
Richard W. Lozier, Jr., Board Member
Joshua J. Byrnes, Board Member*

Public Informational Meeting

Summit Carbon Solutions, LLC – Docket No. HLP-2021-0001

AGENDA

1. Welcome
2. What is the Iowa Utilities Board (IUB)?
3. Office of Consumer Advocate (OCA)
4. Summary of the Permit Process and the Legal Rights of Landowners (presented by IUB)
 - a. Permit Process Overview
 - b. Objections
 - c. Easement
 - d. Eminent Domain (Condemnation)
 - e. Public Hearing and Procedures
 - f. Statement of Property Owner's Rights
 - g. Agricultural Land Restoration/County Inspectors
 - h. Damages
 - i. Safety Inspections
5. Project Information (presented by Summit Carbon Solutions, LLC)
6. Question-and-Answer Session
7. Adjournment



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HAZARDOUS LIQUID PIPELINE INFORMATIONAL MEETING PRESENTATION

In accordance with Iowa Code § 479B.4, the following is a summary of the hazardous liquid pipeline permit process before the Iowa Utilities Board (IUB), and of the legal rights of affected landowners.

[Iowa Code Chapter 479B](#) is the law governing the construction of hazardous liquid pipelines in Iowa. A link to the laws or rules referenced during this presentation can be found on the IUB's website at iub.iowa.gov.

THE PERMIT PROCESS

1. Any hazardous liquid pipeline must be permitted by the IUB prior to construction. A company seeking to build a pipeline¹ can also request that the IUB grant the right of eminent domain (condemnation) to obtain the right-of-way needed for the project.
2. If a proposed pipeline extends five miles long or longer, before the company can request a permit from the IUB, an informational meeting must be held in each affected county. The company proposing the pipeline is required to notify all persons listed on the tax rolls as responsible for the payment of real estate taxes imposed on the property and each person in possession of or residing on the property.²
3. At informational meetings a representative of the IUB presents a summary of the legal rights of affected landowners, and a representative of the company explains the proposed project. The company cannot begin right-of-way negotiations with landowners until after this meeting, and cannot petition the IUB for a permit until at least 30 days after the final informational meeting.
4. An informational meeting is not an evidentiary hearing upon which the IUB will base a decision. At the time of the informational meeting, there is no petition before the IUB. The purpose of the informational meeting is to provide you with information relative to a proposed project, not to receive evidence on its merits. No formal record of the informational meeting is made.
5. A public evidentiary hearing on pipeline permit petitions is required by Iowa Code § 479B.6. After a proper petition is filed and review is completed, a notice is published for two consecutive weeks in a newspaper located in each affected county. The notice will identify the time, date, and place of the hearing. The hearing will be the opportunity for interested parties to present their evidence in favor of or opposing the project. The IUB's decision will be based on the record created at that hearing.

¹ Defined in Utilities Board rules as "any pipe or pipeline and necessary appurtenances used for the transportation or transmission of any hazardous liquid."

² Iowa Code § 479B.4

6. If the pipeline is more than five miles long, Iowa Code § 479B.6(2) requires the hearing be held in the county seat of the county located at the midpoint of the proposed line.
7. The IUB is not an advocate for any person, landowner, or party. The IUB acts as a neutral decision maker to determine whether a proposed pipeline promotes the public convenience and necessity and meets other requirements of Iowa law. The IUB cannot serve as a legal advisor to any party. If you believe you have need for a lawyer, you may retain one at your own expense.
8. IUB proceedings are conducted pursuant to Iowa Code chapters 479B and 17A and 199 Iowa Administrative Code (IAC) chapter 13. The decision whether to grant a permit and, if requested, the right of eminent domain, will be made by the IUB. The IUB may appoint an administrative law judge to preside over the hearing and issue a proposed decision. The administrative law judge's proposed decision will become the final decision of the IUB unless it is appealed to the IUB.
9. When the IUB issues a final order deciding the case, either initially or on appeal from a proposed decision, any party to the proceeding may file for rehearing within 20 days.³ Once a final decision has been made, any party may appeal to District Court within 30 days.⁴
10. All case documents, including the company's filings, IUB orders, notices, objections, and appeals, will be posted to the IUB's electronic filing system (EFS) at efs.iowa.gov.

COMMENTS AND OBJECTIONS

1. Any person whose rights or interests may be affected has the right to file a written comment or objection to the proposed project with the IUB.⁵
2. Written comments or objections may be filed at any time but not later than five days prior to the hearing.⁶ The IUB may, but is not required to, allow late filed objections, in which case the company must be given reasonable time to respond. Verbal objections, other than statements made on the record during a hearing, will not be part of the official case record.
3. A suggested form of objection is attached to this document and is available electronically on the IUB's website. The form, which is not required, is provided for your convenience and to show the type of information an objection should include.
4. The IUB strongly prefers that objections be filed using EFS at efs.iowa.gov; however, written objections sent by mail will be accepted.
5. At evidentiary hearings, parties will be given a reasonable opportunity to cross-examine company witnesses and to present witnesses on their own behalf. The burden is on the company to prove the necessary elements of its petition.
6. IUB evidentiary hearings are quasi-judicial in nature. Hearings are comparable to courtroom proceedings and follow similar rules of testimony, cross-examination, and presentation of evidence. The person presiding over the hearing will assist participants unfamiliar with such proceedings, but cannot assist any party with presentation of its case.

³ Iowa Code § 479B.22

⁴ Iowa Code § 479B.22

⁵ Iowa Code § 479B.7

⁶ Iowa Code § 479B.7(2)

RIGHT-OF-WAY

1. To locate a pipeline on private property, the company must obtain the necessary rights from the landowner or owners. The legal document providing such rights is called an easement. An easement may be a voluntary easement, which means the landowner agrees to sign it after negotiations with the company, or it may be obtained through the use of eminent domain.
2. Generally speaking, an easement is an acquired privilege of the company for the use of a property. The landowner retains ownership, but use of the easement area is restricted by conditions set forth in the easement or by law. The rights sought by the company will be similar whether obtained by voluntary easement or by eminent domain.
3. The IUB does not supervise or control negotiations for the purchase or acquisition of voluntary right-of-way easements. Once this informational meeting is completed, negotiations are strictly between you and the company, either with or without your use of private counsel.
4. Landowners should carefully read the form of easement provided by the company and be thoroughly aware of the rights the company seeks. The landowner has the right to negotiate with the company over the terms of the easement.
5. If future installation of drain tile or soil conservation practices and structures on a property is contemplated, this information needs to be provided to the company, in writing, prior to the securing of an easement. If plans defined by a qualified technician showing this intended work are provided to the pipeline company in advance, IUB rules require that the pipeline be installed in a manner that avoids interference with those plans.⁷
6. If you decide to sign a voluntary easement, you have for a limited time the right to cancel the agreement. Cancellation must be by certified mail with return receipt requested, mailed to the company's principal place of business.⁸ The company must receive the cancellation within seven days, excluding Saturday and Sunday, of the date the agreement was signed. The company must inform you in writing of your right to cancel and provide you with a form for the notice of cancellation. The right of cancellation may be exercised only once.
7. If you have not allowed company surveyors on your property up to this time, following completion of this informational meeting, the company will have the right to enter upon land for making land surveys to determine direction or depth of pipelines. If permission has not been obtained voluntarily, the company must give the landowner ten days written notice by restricted certified mail of its intent, after which it may enter the land. The entry for authorized surveys is not trespass and may be aided by injunction. The company must pay for any damages incurred by the entry and survey.⁹
8. If pipeline right-of-way is wholly abandoned for pipeline purposes by relocation of the pipeline, is not used or operated for five consecutive years, or if construction is begun but ceases and is not resumed for five years, the right-of-way may revert to the current landowner.¹⁰

⁷ 199 IAC 9.5(9)

⁸ Iowa Code § 479B.24

⁹ Iowa Code § 479B.15

¹⁰ Iowa Code § 479B.32

EMINENT DOMAIN (CONDEMNATION)

1. If the company cannot obtain the rights it seeks by voluntary easement, it may petition the IUB for authority to take those rights by eminent domain, or condemnation. Condemnation is the process of taking private property for public use through the power of eminent domain.
2. Under state law, private property cannot be taken for a pipeline unless a) the pipeline is needed to serve a public use and b) just compensation is paid. The IUB determines whether the company has shown the pipeline will serve a public use and promote the public convenience and necessity. The IUB does not determine the matter of just compensation for property rights taken by eminent domain. That issue is determined by a compensation commission appointed from your county under Iowa Code chapter 6B.
3. At this time the company does not have the right of eminent domain; that is, it does not have the power to condemn. The right of eminent domain may only be granted by the IUB after an evidentiary hearing on the eminent domain request.
4. Iowa Code § 479B.4 requires that at informational meetings the IUB representative distribute and review a Statement of Property Owner's Rights prepared by the Iowa Attorney General. These have been adopted as Administrative Rules in 61 IAC chapter 34. In these rules, an "acquiring agency" is not limited to government agencies; it can include private entities that by law have the right of eminent domain. The rules primarily address acquisition of property ownership, but some provisions apply to condemnation of easements.
5. There are 12 property rights set forth in chapter 34. These rights pertain to owners of record who may have property acquired by condemnation. The rights specified in chapter 34 are derived from Iowa Code chapters 6A, 6B, and 316. These statutory rights are not applicable when a landowner voluntarily negotiates for an easement.
6. If an easement on your property would be condemned, the first right on the statement, Number 1, would apply. The Iowa Constitution guarantees the right to just compensation for the taking of property. Rights 5, 6, and 10 could also apply to property condemned for a utility easement. These rights address procedures in condemnation proceedings taken by the court-appointed compensation commission in determining the amount to be paid to the landowner. Other rights may only apply if property ownership is to be obtained by condemnation. An easement is a right of use over the property of another, but does not transfer ownership.

The rights set out in chapter 34 are not a full and complete list or explanation of a landowner's rights under condemnation law. For a more thorough presentation of an owner's rights, you should refer directly to the Iowa Code or contact an attorney of your choice.

DAMAGES

1. In addition to payment for easement rights, the company is required to pay for actual property damages caused by constructing and maintaining the pipeline.¹¹ Payment for damages, including those incurred before, during, or after construction, is different than and separate from the payment for the easement. However, the easement may include provisions covering the determination and payment of damages.
2. In this context, "damages" means compensation for adverse physical impacts to the land, crops, livestock, and other property. The law is mainly oriented toward damages to agricultural

¹¹ Iowa Code § 479B.17 and 479B.29

lands and provides a list of primarily agricultural damages that are specifically eligible for compensation. However, those are not the only damages that may be claimed. Any type of physical damage to agricultural or urban property is subject to compensation.

3. The damage settlement may include an allowance for a temporary reduction in crop yield in the disturbed area. If in future years the owner believes the settlement made for future crop deficiency was inadequate, Iowa Code § 479B.29 allows renegotiation. The landowner must notify the company in writing 14 days before harvest each year to assess crop deficiency.

4. In the context of damages, the term “owner” may refer to the tenant of the land if the tenant is the owner of the crops, livestock, or other property affected.

5. The company must provide you with a written statement explaining how damages resulting from pipeline construction will be determined and paid.¹² You have the right to negotiate with the company for more specific or additional terms.

6. The pipeline company must designate a point of contact for landowner inquiries or claims.¹³ The information provided must include a name, address, and toll-free phone number. This information must be provided in writing prior to construction to all landowners with property that will be disturbed by the construction. When construction is completed, a point of contact shall remain available for at least one year for all landowners, and for individual landowners, until their claims are settled.

7. Damage settlements are not decided by the IUB but are subject to negotiation between the owner and the company.

8. The easement or other written agreement between the owner and company may provide that the damage amount be determined by an arbitrator.¹⁴

9. If the parties cannot agree on a settlement and no other means of resolving disputes has been agreed to, the landowner or tenant may petition the county board of supervisors to have the damages determined by a compensation commission.¹⁵ The petition must be filed not less than 90 days after completion of installation of the pipeline.

If the award of the compensation commission is more than 110% of the company's final offer for damages, the company must pay for the cost of the assessment by the commissioners, plus reasonable attorney fees and costs incurred by the owner as determined by the commissioners. If the award is 110% or less of the company's final offer, the owner must pay the fees and costs incurred by the pipeline company.

10. If you find additional damage after you have already been paid for any construction or maintenance damages caused by the pipeline company, and the additional damage was not apparent when the first damages were paid, you have five years from the date of payment to renegotiate the damages.¹⁶ The pipeline company is required to give you written notice of this right at the time of settlement of damages.

11. If the company has previously constructed a pipeline on a property, Iowa Code § 479B.26 forbids construction of another pipeline under that same easement if there is an outstanding,

¹² Iowa Code § 479B.27

¹³ 199 IAC 9.6

¹⁴ Iowa Code § 479B.25

¹⁵ Iowa Code chapter 6B and Iowa Code § 479B.30

¹⁶ Iowa Code § 6B.52

unpaid damage claim remaining from the previous construction. This does not apply if that claim is in the process of being settled through arbitration or litigation. Also, for this section to apply, except for claims for damage to drain tile and future crop deficiency, landowners and tenants must have submitted written claims for damages to the pipeline company within one year after final cleanup of the property.

12. Iowa law gives the company the right of reasonable access to its pipelines for purposes of constructing, operating, maintaining, and locating.¹⁷ The company must pay the owner of the land and crops for all damages resulting from such entry and action. The law allows the parties to enter into a separate agreement to cover such situations.

13. Iowa law requires that you call the Iowa One Call system at 811 (or 800-292-8989) before any excavating is done.¹⁸ Excavation does not include normal farm operations (tillage up to 15 inches deep) or gardening, but it does include tiling and construction of erosion control structures. The call must be made at least 48 hours before excavation begins, not including weekends and legal holidays. The owners of any underground utilities in the area, including the proposed pipeline if it is approved and constructed, will mark the location within 48 hours (or notify you that the company's facilities are not in the area where you will be excavating). There is no charge for the call or for marking the lines. Failure to call will expose you to possible hazards and potential liability.

14. If new tile is installed after the pipeline is constructed and additional costs are incurred due to the presence of a pipeline, the company must pay those additional costs provided the county engineer or soil and water conservation district conservationist verifies that the pipeline is the specific cause; or, you can negotiate an agreement with the pipeline company on the project design and the share of the cost to be paid. Either way, you are encouraged to discuss your plans with the pipeline company well in advance of tile installation.¹⁹

AGRICULTURAL LAND RESTORATION/COUNTY INSPECTOR

1. The IUB has adopted rules establishing standards for the restoration of agricultural lands during and after pipeline construction. These rules are found in 199 IAC chapter 9. A copy of chapter 9 is attached. During construction, these regulations will be enforced by inspectors hired by the county, not by the IUB.²⁰

2. When a petition for a pipeline permit is filed, it must include a land restoration plan showing how the requirements of the land restoration laws and rules will be met. The IUB will consider this plan as part of the permit proceeding. The company must provide affected landowners with a copy of this plan prior to starting construction.

3. Landowners have the right to negotiate independent land restoration agreements with provisions different from those of the IUB rules or the land restoration plan, provided they are not inconsistent with the rules. Such agreements may be part of the easement or separate. They must be in writing and a copy must be provided to the county inspector.

¹⁷ Iowa Code § 479B.17

¹⁸ Iowa Code chapter 480

¹⁹ Iowa Code § 479B.31

²⁰ Iowa Code § 479B.20

4. The company must allow landowners and county inspectors to view the proposed center line of the pipeline before commencing trenching operations to ensure that construction takes place in its proper location.

5. The county inspector may temporarily halt construction if the construction is not in compliance with the land restoration rules, the land restoration plan, or an independent agreement on land restoration or line location, until the inspector consults with the supervisory personnel of the pipeline company. If any special provisions in those areas were made during the easement negotiations, you should make sure the county inspector is aware of them before construction begins on your land.

6. If the company does not comply with requirements of the statute, the land restoration plan, or with an independent agreement, the county board of supervisors may petition the IUB for an order requiring corrective action and may file a complaint seeking imposition of civil penalties.²¹

Attached to this presentation is a summary of events entitled Appendix A. It is provided to give you an overview of the process in the sequence that it may occur.

Rev. 9/2021

²¹ Iowa Code § 479B.20(5)

APPENDIX A

NOTE: A typical sequence of events, as it may affect the landowner, is set forth below. You should not attach any rigid significance to this sequence. It is merely an example to aid you in understanding the process.

1. Company planning determines the need for the line between termination points.
2. Prime route, and possibly alternative routes, are tentatively selected.
3. Route landowner and tenant names and addresses collected.
4. Informational meeting notices mailed.
5. Informational meeting held.
6. Company right-of-way personnel contact landowners to solicit voluntary easements.
7. Company may enter land for land survey to determine depth and direction of pipeline.
8. The company files petition for permit with IUB. Eminent domain may be requested at this time or later.
9. Newspaper publishes notices of hearing.
10. Evidentiary hearing held by IUB.
11. IUB decision denying or granting permit. If the petition requested eminent domain, a ruling granting or denying that right will also be issued.
12. If the petition and/or eminent domain is denied, the company may petition for rehearing or appeal the IUB denial to the courts. If the petition and/or eminent domain is granted, the landowner may petition for rehearing or appeal the IUB decision to the courts.

To simplify the balance of the list, it is assumed that the IUB granted the permit and the right of eminent domain, and the decision was not appealed.

13. The pipeline company shows the landowner exactly where the pipeline will be placed.
14. The company may commence construction where it has obtained voluntary easements.
15. If eminent domain actions are taken, the company petitions the chief judge of the judicial district for the county involved to appoint a compensation commission. (Iowa Code chapter 6B).
16. The compensation commission sets compensation amounts, the company pays landowners who will accept, posts payment with the sheriff for those who won't, and may commence construction over the balance of the route.
17. Either the landowners of the company may appeal the amount determined by the compensation commission to the courts.
18. Line construction and cleanup completed.

19. Company pays agreed-to construction damages to eminent domain parcel owners and gives written notice (Iowa Code section 6B.52) of renegotiation right.
20. If the landowner or tenant and company cannot agree on the amount of construction damages, and there is no provision in the easement or other agreement calling for such disputes to be settled by an arbitrator or other means, the landowner or tenant may petition the county board of supervisors to establish a compensation commission to determine the damages.
21. Either the landowners or the company may appeal the amount determined by the compensation commission to the courts.

CHAPTER 34

ACQUISITION NEGOTIATION STATEMENT OF RIGHTS

61—34.1(6B) Statement of property owner's rights. Iowa Code section 6B.2A(1) mandates that an acquiring agency provide a statement of rights to owners of record who may have all or a part of their property acquired by condemnation. It also directs the attorney general to adopt rules prescribing a statement of rights which an acquiring agency may use to meet its obligation. Pursuant to that directive, the following statement of property owner's rights is adopted:

STATEMENT OF PROPERTY OWNER'S RIGHTS

Just as the law grants certain entities the right to acquire private property, you as the owner of the property have certain rights. You have the right to:

1. Receive just compensation for the taking of property. (Iowa Constitution, Article I, section 18)
2. An offer to purchase which may not be less than the lowest appraisal of the fair market value of the property. (Iowa Code section 6B.54(3))
3. Receive a copy of the appraisal, if an appraisal is required, upon which the acquiring agency's determination of just compensation is based not less than ten days before being contacted by the acquiring agency's acquisition agent. (Iowa Code section 6B.45)
4. An opportunity to accompany at least one appraiser of the acquiring agency who appraises your property when an appraisal is required. (Iowa Code section 6B.54(2))
5. Participate in good-faith negotiations with the acquiring agency before the acquiring agency begins condemnation proceedings. (Iowa Code section 6B.2B)
6. Retain legal counsel of your choosing at your expense for the purpose of bringing a court action to challenge the exercise of eminent domain authority or the condemnation proceedings in accordance with the provisions of law. (Iowa Code section 6B.3A; Iowa Code section 6A.24)
7. A determination of just compensation by an impartial compensation commission and the right to appeal its award to the district court if you cannot agree on a purchase price with the acquiring agency. (Iowa Code section 6B.4; Iowa Code section 6B.7; Iowa Code section 6B.18)
8. Payment of the agreed upon purchase price or, if condemned, a deposit of the compensation commission award before you are required to surrender possession of the property. (Iowa Code section 6B.25; Iowa Code section 6B.26; Iowa Code section 6B.54(11))
9. Reimbursement for expenses incidental to transferring title to the acquiring agency. (Iowa Code section 6B.33; Iowa Code section 6B.54(10))
10. Reimbursement of certain litigation expenses: (a) if the award of the compensation commissioners exceeds 110 percent of the acquiring agency's final offer before condemnation; and (b) if the award on appeal in court is more than the compensation commissioners' award. (Iowa Code section 6B.33)
11. To the greatest extent practicable, be provided at least 90 days' written notice to vacate occupied property prior to construction or development of a public improvement. (Iowa Code section 6B.54(4))
12. Relocation services and payments, if you are eligible to receive them, and the right to appeal your eligibility for and amount of the payments. (Iowa Code section 316.9; Iowa Code section 6B.42)

The rights set out in this statement are not claimed to be a full and complete list or explanation of an owner's rights under the law. They are derived from Iowa Code chapters 6A, 6B and 316. For a more thorough presentation of an owner's rights, you should refer directly to the Iowa Code or contact an attorney of your choice.

[ARC 2979C, IAB 3/15/17, effective 4/19/17; see Delay note at end of chapter]

61—34.2(6B) Alternate statement of rights. Rule 61—34.1(6B) is not intended to prohibit acquiring agencies from providing a statement of rights in a different form, a more detailed statement of rights, or supplementary material expanding upon an owner's rights.

[ARC 2979C, IAB 3/15/17, effective 4/19/17]

These rules are intended to implement Iowa Code section 6B.2A(1).

[Filed 9/17/99, Notice 8/11/99—published 10/6/99, effective 11/10/99]

[Filed ARC 2979C (Notice ARC 2877C, IAB 1/4/17), IAB 3/15/17, effective 4/19/17]¹

¹ April 19, 2017, effective date of 34.1 [ARC 2979C] delayed 70 days by the Administrative Rules Review Committee at its meeting held April 7, 2017. [Pursuant to §17A.4(7)]

CHAPTER 479B

HAZARDOUS LIQUID PIPELINES AND STORAGE FACILITIES

Referred to in §6B.42, 306A.3, 474.1, 474.9, 479.1, 546.7

479B.1	Purpose — authority.	479B.16	Eminent domain.
479B.2	Definitions.	479B.17	Damages.
479B.3	Conditions attending operation.	479B.18	Venue.
479B.4	Application for permit — informational meeting — notice.	479B.19	Orders — enforcement.
479B.5	Petition.	479B.20	Land restoration standards.
479B.6	Hearing — notice.	479B.21	Civil penalty.
479B.7	Objections.	479B.22	Rehearing — judicial review.
479B.8	Examination — testimony.	479B.23	Authorized federal aid.
479B.9	Final order — condition.	479B.24	Cancellation.
479B.10	Costs and fees.	479B.25	Arbitration agreements.
479B.11	Inspection fee.	479B.26	Subsequent pipeline or underground storage facility.
479B.12	Use of funds.	479B.27	Damage agreement.
479B.13	Financial condition of permittee — bond.	479B.28	Negotiated fee.
479B.14	Permits — limitations — sale or transfer — records — extension.	479B.29	Particular damage claims.
479B.15	Entry for land surveys.	479B.30	Determination of construction damages.
		479B.31	Subsequent tiling.
		479B.32	Reversion on nonuse.
		479B.33	Farmland improvements.

479B.1 Purpose — authority.

It is the purpose of the general assembly in enacting this law to grant the utilities board the authority to implement certain controls over hazardous liquid pipelines to protect landowners and tenants from environmental or economic damages which may result from the construction, operation, or maintenance of a hazardous liquid pipeline or underground storage facility within the state, to approve the location and route of hazardous liquid pipelines, and to grant rights of eminent domain where necessary.

[95 Acts, ch 192, §28](#)

479B.2 Definitions.

As used in [this chapter](#), unless the context appears otherwise:

1. “Board” means the utilities board within the utilities division of the department of commerce.
2. “Hazardous liquid” means crude oil, refined petroleum products, liquefied petroleum gases, anhydrous ammonia, liquid fertilizers, liquefied carbon dioxide, alcohols, and coal slurries.
3. “Pipeline” means an interstate pipe or pipeline and necessary appurtenances used for the transportation or transmission of hazardous liquids.
4. “Pipeline company” means a person engaged in or organized for the purpose of owning, operating, or controlling pipelines for the transportation or transmission of any hazardous liquid or underground storage facilities for the underground storage of any hazardous liquid.
5. “Underground storage” means storage of hazardous liquid in a subsurface stratum or formation of the earth.
6. “Utilities division” means the utilities division of the department of commerce.

[95 Acts, ch 192, §29](#)

Referred to in §214A.1

479B.3 Conditions attending operation.

A pipeline company shall not construct, maintain, or operate a pipeline or underground storage facility under, along, over, or across any public or private highways, grounds, waters, or streams of any kind in this state except in accordance with [this chapter](#).

[95 Acts, ch 192, §30](#)

479B.4 Application for permit — informational meeting — notice.

1. A pipeline company doing business in this state shall file a verified petition with the board asking for a permit to construct, maintain, and operate a new pipeline along, over, or across the public or private highways, grounds, waters, and streams of any kind in this state. Any pipeline company now owning or operating a pipeline or underground storage facility in this state shall be issued a permit by the board upon supplying the information as provided for in [section 479B.5, subsections 1 through 5](#), and meeting the requirements of [section 479B.13](#).

2. A pipeline company doing business in this state and proposing to store hazardous liquid underground within this state shall file with the board a verified petition asking for a permit to construct, maintain, and operate facilities for the underground storage of hazardous liquid which includes the construction, placement, maintenance, and operation of machinery, appliances, fixtures, wells, pipelines, and stations necessary for the construction, maintenance, and operation of the underground storage facilities.

3. The pipeline company shall hold informational meetings in each county in which real property or property rights will be affected at least thirty days prior to filing the petition for a new pipeline. A member of the board, or a person designated by the board, shall serve as the presiding officer at each meeting and present an agenda for the meeting which shall include a summary of the legal rights of the affected landowners. No formal record of the meeting shall be required. The meeting shall be held at a location reasonably accessible to all persons who may be affected by granting the permit.

4. The pipeline company seeking the permit for a new pipeline shall give notice of the informational meeting to each landowner affected by the proposed project and each person in possession of or residing on the property. For the purposes of the informational meeting, “landowner” means a person listed on the tax assessment rolls as responsible for the payment of real estate taxes imposed on the property and “pipeline” means a line transporting a hazardous liquid under pressure in excess of one hundred fifty pounds per square inch and extending a distance of not less than five miles or having a future anticipated extension of an overall distance of five miles.

5. a. The notice shall set forth the following:

- (1) The name of the applicant.
- (2) The applicant’s principal place of business.
- (3) The general description and purpose of the proposed project.
- (4) The general nature of the right-of-way desired.
- (5) A map showing the route or location of the proposed project.
- (6) That the landowner has a right to be present at the meeting and to file objections with the board.
- (7) A designation of the time and place of the meeting.

b. The notice shall be served by certified mail with return receipt requested not less than thirty days previous to the time set for the meeting, and shall be published once in a newspaper of general circulation in the county. The publication shall be considered notice to landowners whose residence is not known and to each person in possession of or residing on the property provided a good faith effort to notify can be demonstrated by the pipeline company.

6. A pipeline company seeking rights under [this chapter](#) shall not negotiate or purchase an easement or other interest in land in a county known to be affected by the proposed project prior to the informational meeting.

[95 Acts, ch 192, §31; 2018 Acts, ch 1160, §28; 2019 Acts, ch 24, §68](#)

Referred to in [§479B.15](#)

479B.5 Petition.

A petition for a permit shall state all of the following:

1. The name of the individual, firm, corporation, company, or association applying for the permit.
2. The applicant’s principal office and place of business.
3. A legal description of the route of the proposed pipeline and a map of the route.

4. A general description of the public or private highways, grounds, waters, streams, and private lands of any kind along, over, or across which the proposed pipeline will pass.

5. If permission is sought to construct, maintain, and operate facilities for the underground storage of hazardous liquids the petition shall include the following additional information:

a. A description and a map of the public or private highways, grounds, waters, streams, and private lands of any kind under which the storage is proposed.

b. Maps showing the location of proposed machinery, appliances, fixtures, wells, and stations necessary for the construction, maintenance, and operation of the hazardous liquid storage facilities.

6. The possible use of alternative routes.

7. The relationship of the proposed project to the present and future land use and zoning ordinances.

8. The inconvenience or undue injury which may result to property owners as a result of the proposed project.

9. An affidavit attesting to the fact that informational meetings were held in each county affected by the proposed project and the time and place of each meeting.

[95 Acts, ch 192, §32](#)

Referred to in §479B.4, 479B.14

479B.6 Hearing — notice.

1. After the petition is filed, the board shall fix a date for a hearing and shall publish notice for two consecutive weeks, in a newspaper of general circulation in each county through which the proposed pipeline or hazardous liquid storage facilities will extend.

2. The hearing shall not be less than ten days nor more than thirty days from the date of the last publication of the notice. If the pipeline exceeds five miles in length, the hearing shall be held in the county seat of the county located at the midpoint of the proposed pipeline or the county in which the proposed hazardous liquid storage facility would be located.

[95 Acts, ch 192, §33; 2018 Acts, ch 1041, §127](#)

479B.7 Objections.

1. A person, including a governmental entity, whose rights or interests may be affected by the proposed pipeline or hazardous liquid storage facilities may file written objections.

2. All objections shall be on file with the board not less than five days before the date of hearing on the application. However, the board may permit the filing of the objections later than five days before the hearing, in which event the applicant must be granted a reasonable time to meet the objections.

[95 Acts, ch 192, §34; 2019 Acts, ch 24, §104](#)

479B.8 Examination — testimony.

The board may examine the proposed route of the pipeline and location of the underground storage facility. At the hearing the board shall consider the petition and any objections and may hear testimony to assist the board in making its determination regarding the application.

[95 Acts, ch 192, §35](#)

479B.9 Final order — condition.

The board may grant a permit in whole or in part upon terms, conditions, and restrictions as to location and route as it determines to be just and proper. A permit shall not be granted to a pipeline company unless the board determines that the proposed services will promote the public convenience and necessity.

[95 Acts, ch 192, §36](#)

479B.10 Costs and fees.

The applicant shall pay all costs of the informational meetings, hearing, and necessary preliminary investigation including the cost of publishing notice of hearing, and shall pay the actual unrecovered costs directly attributable to inspections conducted by the board.

95 Acts, ch 192, §37

479B.11 Inspection fee.

1. If the board enters into agreements with the United States department of transportation pursuant to [section 479B.23](#), a pipeline company shall pay an annual fee of fifty cents per mile of pipeline or fraction thereof for each inch of diameter of the pipeline located in the state. The inspection fee shall be paid to the board between January 1 and February 1 for the calendar year.

2. The board shall collect all fees. Failure to pay any fee within thirty days from the due date shall be grounds for revocation of the permit or assessment of civil penalties.

95 Acts, ch 192, §38; 2018 Acts, ch 1041, §127

479B.12 Use of funds.

All moneys received under [this chapter](#), other than civil penalties collected pursuant to [section 479B.21](#), shall be remitted monthly to the treasurer of state and credited to the department of commerce revolving fund created in [section 546.12](#).

95 Acts, ch 192, §39; 2009 Acts, ch 181, §56

479B.13 Financial condition of permittee — bond.

Before a permit is granted under [this chapter](#) the applicant must satisfy the board that the applicant has property within this state other than pipelines or underground storage facilities, subject to execution of a value in excess of two hundred fifty thousand dollars, or the applicant must file and maintain with the board a surety bond in the penal sum of two hundred fifty thousand dollars with surety approved by the board, conditioned that the applicant will pay any and all damages legally recovered against it growing out of the construction, maintenance, or operation of its pipeline or underground storage facilities in this state. When the pipeline company deposits with the board security satisfactory to the board as a guaranty for the payment of the damages, or furnishes to the board satisfactory proofs of its solvency and financial ability to pay the damages, the pipeline company is relieved of the provisions requiring bond.

95 Acts, ch 192, §40

Referred to in §479B.4, 479B.14

479B.14 Permits — limitations — sale or transfer — records — extension.

1. The board shall prepare and issue permits. The permit shall show the name and address of the pipeline company to which it is issued and identify the decision and order of the board under which the permit is issued. The permit shall be signed by the chairperson of the board and the official seal of the board shall be affixed to it.

2. The board shall not grant an exclusive right to any pipeline company to construct, maintain, or operate its pipeline along, over, or across any public or private highway, grounds, waters, or streams. The board shall not grant a permit for longer than twenty-five years.

3. A permit shall not be sold until the sale is approved by the board.

4. If a transfer of a permit is made before the construction for which it was issued is completed in whole or in part, the transfer shall not be effective until the pipeline company to which it was issued files with the board a notice in writing stating the date of the transfer and the name and address of the transferee.

5. The board shall keep a record of all permits granted by it, showing when and to whom granted and the location and route of the pipeline or underground storage facility, and if the permit has been transferred, the date and the name and address of the transferee.

6. A pipeline company may petition the board for an extension of a permit granted

under [this section](#) by filing a petition containing the information required by [section 479B.5, subsections 1 through 5](#), and meeting the requirements of [section 479B.13](#).

[95 Acts, ch 192, §41; 2019 Acts, ch 24, §104](#)

479B.15 Entry for land surveys.

After the informational meeting or after the filing of a petition if no informational meeting is required, a pipeline company may enter upon private land for the purpose of surveying and examining the land to determine direction or depth of pipelines by giving ten days' written notice by restricted certified mail to the landowner as defined in [section 479B.4](#) and to any person residing on or in possession of the land. The entry for land surveys shall not be deemed a trespass and may be aided by injunction. The pipeline company shall pay the actual damages caused by the entry, survey, and examination.

[95 Acts, ch 192, §42](#)

479B.16 Eminent domain.

1. A pipeline company granted a pipeline permit shall be vested with the right of eminent domain, to the extent necessary and as prescribed and approved by the board, not exceeding seventy-five feet in width for right-of-way and not exceeding one acre in any one location in addition to right-of-way for the location of pumps, pressure apparatus, or other stations or equipment necessary to the proper operation of its pipeline. The board may grant additional eminent domain rights where the pipeline company has presented sufficient evidence to adequately demonstrate that a greater area is required for the proper construction, operation, and maintenance of the pipeline or for the location of pumps, pressure apparatus, or other stations or equipment necessary to the proper operation of its pipeline.

2. A pipeline company granted a permit for underground storage of hazardous liquid shall be vested with the right of eminent domain to the extent necessary and as prescribed and approved by the board in order to appropriate for its use for the underground storage of hazardous liquid any subsurface stratum or formation in any land which the board shall have found to be suitable and in the public interest for the underground storage of hazardous liquid, and may appropriate other interests in property, as may be required adequately to examine, prepare, maintain, and operate the underground storage facilities.

3. [This chapter](#) does not authorize the construction of a pipeline longitudinally on, over, or under any railroad right-of-way or public highway, or at other than an approximate right angle to a railroad track or public highway without the consent of the railroad company, the state department of transportation, or the county board of supervisors, and [this chapter](#) does not authorize or give the right of condemnation or eminent domain for such purposes.

[95 Acts, ch 192, §43; 2018 Acts, ch 1041, §127](#)

479B.17 Damages.

A pipeline company operating a pipeline or an underground storage facility shall have reasonable access to the pipeline or underground storage facility for the purpose of constructing, operating, maintaining, or locating pipes, pumps, pressure apparatus, or other stations, wells, devices, or equipment used in or upon the pipeline or underground storage facility. A pipeline company shall pay the owner of the land for the right of entry and the owner of crops for all damages caused by entering, using, or occupying the lands and shall pay to the owner all damages caused by the completion of construction of the pipeline due to wash or erosion of the soil at or along the location of the pipeline and due to the settling of the soil along and above the pipeline. However, [this section](#) does not prevent the execution of an agreement between the pipeline company and the owner of the land or crops with reference to the use of the land.

[95 Acts, ch 192, §44, 62](#)

479B.18 Venue.

In all cases arising under [this chapter](#), the district court of any county in which property of a pipeline company is located has jurisdiction of a case involving the pipeline company.

[95 Acts, ch 192, §45](#)

479B.19 Orders — enforcement.

If the pipeline company fails to obey an order within the period of time determined by the board, the board may commence an equitable action in the district court of the county where the pipeline, device, apparatus, equipment, or underground storage facility is located to compel compliance with its order. If, after trial, the court finds that the order is reasonable, equitable, and just, the court shall decree a mandatory injunction compelling obedience to and compliance with the order and may grant other relief as may be just and proper. Appeal from the decree may be taken in the same manner as in other actions.

95 Acts, ch 192, §46

479B.20 Land restoration standards.

1. The board, pursuant to [chapter 17A](#), shall adopt rules establishing standards for the restoration of agricultural lands during and after pipeline or underground storage facility construction. In addition to the requirements of [section 17A.4](#), the board shall distribute copies of the notice of intended action and opportunity for oral presentations to each county board of supervisors. Any county board of supervisors may, under the provisions of [chapter 17A](#), and subsequent to the rulemaking proceedings, petition under those provisions for additional rulemaking to establish standards for land restoration after pipeline construction within that county. Upon the request of the petitioning county, the board shall schedule a hearing to consider the merits of the petition. Rules adopted under [this section](#) shall not apply to land located within city boundaries unless the land is used for agricultural purposes. Rules adopted under [this section](#) shall address, but are not limited to, all of the following subject matters:

- a. Topsoil separation and replacement.
- b. Temporary and permanent repair to drain tile.
- c. Removal of rocks and debris from the right-of-way.
- d. Restoration of areas of soil compaction.
- e. Restoration of terraces, waterways, and other erosion control structures.
- f. Revegetation of untilled land.
- g. Future installation of drain tile or soil conservation structures.
- h. Restoration of land slope and contour.
- i. Restoration of areas used for field entrances and temporary roads.
- j. Construction in wet conditions.
- k. Designation of a pipeline company point of contact for landowner inquiries or claims.

2. The county board of supervisors shall cause an on-site inspection for compliance with the standards adopted under [this section](#) to be performed at any pipeline construction project in the county. A licensed professional engineer familiar with the standards adopted under [this section](#) and registered under [chapter 542B](#) shall be responsible for the inspection. A county board of supervisors may contract for the services of a licensed professional engineer for the purposes of the inspection. The reasonable costs of the inspection shall be paid by the pipeline company.

3. If the inspector determines that there has been a violation of the standards adopted under [this section](#), of the land restoration plan, or of an independent agreement on land restoration or line location executed in accordance with [subsection 10](#), the inspector shall give oral notice, followed by written notice, to the pipeline company and the contractor operating for the pipeline company and order corrective action to be taken in compliance with the standards. The costs of the corrective action shall be borne by the contractor operating for the pipeline company.

4. An inspector shall adequately inspect underground improvements altered during construction of the pipeline. An inspection shall be conducted at the time of the replacement or repair of the underground improvements. An inspector shall be present on the site at all times at each phase and separate activity of the opening of the trench, the restoration of underground improvements, and backfilling. The pipeline company and its contractor shall keep an inspector continually informed of the work schedule and any schedule changes. If proper notice is given, construction shall not be delayed due to an inspector's failure to be present on the site.

5. If the pipeline company or its contractor does not comply with the requirements of [this section](#), with the land restoration plan or line location, or with an independent agreement on land restoration executed in accordance with [subsection 10](#), the county board of supervisors may petition the board for an order requiring corrective action to be taken. In addition, the county board of supervisors may file a complaint with the board seeking imposition of civil penalties under [section 479B.21](#).

6. The pipeline company shall allow landowners and the inspector to view the proposed center line of the pipeline prior to commencing trenching operations to ensure that construction takes place in its proper location.

7. An inspector may temporarily halt the construction if the construction is not in compliance with [this chapter](#) and the standards adopted pursuant to [this chapter](#), the land restoration plan, or the terms of an independent agreement with the pipeline company regarding land restoration or line location executed in accordance with [subsection 10](#), until the inspector consults with the supervisory personnel of the pipeline company.

8. The board shall instruct inspectors appointed by the board of supervisors regarding the content of the statutes and rules and the inspectors' responsibility to require construction conforming with the standards provided by [this chapter](#).

9. Petitioners for a permit for pipeline construction shall file with the petition a written land restoration plan showing how the requirements of [this section](#), and of rules adopted pursuant to [this section](#), will be met. The company shall provide copies of the plan to all landowners of property that will be disturbed by the construction.

10. [This section](#) does not preclude the application of provisions for protecting or restoring property that are different than those prescribed in [this section](#), in rules adopted under [this section](#), or in the land restoration plan, if the alternative provisions are contained in agreements independently executed by the pipeline company and the landowner, and if the alternative provisions are not inconsistent with state law or with rules adopted by the board. Independent agreements on land restoration or line location between the landowner and pipeline company shall be in writing and a copy provided to the county inspector.

11. For the purposes of [this section](#), "construction" includes the removal of a previously constructed pipeline.

12. The requirements of [this section](#) shall apply only to pipeline construction projects commenced on or after June 1, 1999.

[95 Acts, ch 192, §47; 99 Acts, ch 85, §7, 11](#)

479B.21 Civil penalty.

1. A person who violates [this chapter](#) or any rule or order issued pursuant to [this chapter](#) shall be subject to a civil penalty levied by the board in an amount not to exceed one thousand dollars for each violation. Each day that the violation continues shall constitute a separate offense. However, the maximum civil penalty shall not exceed two hundred thousand dollars for any related series of violations. Civil penalties collected pursuant to [this section](#) shall be forwarded by the chief operating officer of the board to the treasurer of state to be credited to the general fund of the state and appropriated to the division of community action agencies of the department of human rights for purposes of the low income home energy assistance program and the weatherization assistance program.

2. A civil penalty may be compromised by the board. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the pipeline company charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation, shall be considered. The amount of the penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owed by the state to the person charged, or may be recovered in a civil action.

[95 Acts, ch 192, §48; 2017 Acts, ch 169, §46, 49; 2018 Acts, ch 1160, §29](#)

Referred to in [§479B.12](#), [479B.20](#)

479B.22 Rehearing — judicial review.

Rehearing procedure for any person aggrieved by actions of the board under [this chapter](#) shall be as provided in [section 476.12](#). Judicial review may be sought in accordance with the terms of [chapter 17A](#).

[95 Acts, ch 192, §49](#)

479B.23 Authorized federal aid.

The board may enter into agreements with and receive moneys from the United States department of transportation for the inspection of pipelines to determine compliance with applicable standards of pipeline safety, and for enforcement of the applicable standards of pipeline safety as provided by 49 U.S.C. §60101 et seq.

[95 Acts, ch 192, §50](#)

Referred to in [§479B.11](#)

479B.24 Cancellation.

A pipeline company seeking to acquire an easement or other property interest for the construction, maintenance, or operation of a pipeline or underground storage facility shall do all of the following:

1. Allow the landowner or a person serving in a fiduciary capacity on the landowner's behalf to cancel an agreement granting an easement or other interest by restricted certified mail to the pipeline company's principal place of business if received by the pipeline company within seven days, excluding Saturday and Sunday, of the date of the agreement and inform the landowner or the fiduciary in writing of the right to cancel prior to the signing of the agreement by the landowner or the fiduciary.
2. Provide the landowner or a person serving in a fiduciary capacity in the landowner's behalf with a form in duplicate for the notice of cancellation.
3. Not record an agreement until after the period for cancellation has expired.
4. Not include in the agreement a waiver of the right to cancel in accordance with [this section](#). The landowner or a person serving in a fiduciary capacity in the landowner's behalf may exercise the right of cancellation only once for each pipeline project.

[95 Acts, ch 192, §51](#)

479B.25 Arbitration agreements.

1. If an easement or other written agreement between a landowner and a pipeline company provides for the determination through arbitration of the amount of monetary damages sustained by a landowner and caused by the construction, maintenance, or repair of a pipeline or underground storage facility, and if either party has not appointed its arbitrator or agreed to an arbitrator under the agreement within thirty days after the other party has invoked the arbitration provisions of the agreement by written notice to the other party by restricted certified mail, the landowner or the pipeline company may petition a magistrate in the county where the real property is located for the appointment of an arbitrator to serve in the stead of the arbitrator who would have been appointed or agreed to by the other party. Before filing the petition the landowner or pipeline company shall give notice of the petitioning of the magistrate by restricted certified mail to the other party and file proof of mailing with the petition.

2. If after hearing, the magistrate finds that the landowner or pipeline company has not been diligent in appointing or reasonable in agreeing to an arbitrator, the magistrate shall appoint an impartial arbitrator who shall have all of the powers and duties of an arbitrator appointed or agreed to by the other party under the agreement.

3. For purposes of [this section](#) only, "landowner" means the person who signed the easement or other written agreement, or the person's heirs, successors, and assigns.

[95 Acts, ch 192, §52, 62; 2018 Acts, ch 1041, §127](#)

479B.26 Subsequent pipeline or underground storage facility.

1. A pipeline company shall not construct a subsequent pipeline or underground storage facility upon its existing easement when a damage claim from the installation of its previous

pipeline on that easement has not been resolved unless that claim is under litigation or arbitration, or is the subject of a proceeding pursuant to [section 479B.30](#).

2. With the exception of claims for damage to drain tile and future crop deficiency, for [this section](#) to apply, landowners and tenants must submit their claims in writing for damages caused by construction of the pipeline or underground storage facility within one year of final cleanup on the real property by the pipeline company.

[95 Acts, ch 192, §53; 2018 Acts, ch 1041, §127](#)

479B.27 Damage agreement.

A pipeline company shall not construct a pipeline or underground storage facility until a written statement is on file with the board as to how damages resulting from the construction of the pipeline shall be determined and paid, except in cases of eminent domain. The pipeline company shall provide a copy of the statement to the landowner.

[95 Acts, ch 192, §54](#)

479B.28 Negotiated fee.

In lieu of a one-time lump sum payment for an easement or other property interest allowing a pipeline to cross property or allowing underground storage of hazardous liquids, a landowner and the pipeline company may negotiate an annual fee, to be paid over a fixed number of years. Unless the easement provides otherwise, the annual fee shall run with the land and shall be payable to the owner of record.

[95 Acts, ch 192, §55](#)

479B.29 Particular damage claims.

1. Compensable losses shall include, but are not limited to, all of the following:

a. Loss or reduced yield of crops or forage on the pipeline right-of-way, whether caused directly by construction or from disturbance of usual farm operations.

b. Loss or reduced yield of crops or yield from land near the pipeline right-of-way resulting from lack of timely access to the land or other disturbance of usual farm operations, including interference with irrigation.

c. Fertilizer, lime, or organic material applied by the landowner to restore land disturbed by construction to full productivity.

d. Loss of or damage to trees of commercial or other value that occurs at the time of construction, restoration, or at the time of any subsequent work by the pipeline company.

e. The cost of or losses in moving or relocating livestock, and the loss of gain by or the death or injury of livestock caused by the interruption or relocation of normal feeding.

f. Erosion on lands attributable to pipeline construction.

g. Damage to farm equipment caused by striking a pipeline, debris, or other material reasonably associated with pipeline construction while engaged in normal farming operations as defined in [section 480.1](#).

2. A claim for damage for future crop deficiency within the easement strip shall not be precluded from renegotiation under [section 6B.52](#) on the grounds that it was apparent at the time of settlement unless the settlement expressly releases the pipeline company from claims for damage to the productivity of the soil. The landowner shall notify the pipeline company in writing fourteen days prior to harvest in each year to assess crop deficiency.

[95 Acts, ch 192, §56, 62; 99 Acts, ch 85, §8, 11](#)

479B.30 Determination of construction damages.

1. The county board of supervisors shall determine when construction of a pipeline or underground storage facility has been completed in that county for the purposes of [this section](#). Not less than ninety days after the completion of construction and if an agreement cannot be made as to damages, a landowner whose land was affected by the construction of the pipeline or underground storage facility or the pipeline company may file with the board of supervisors a petition asking that a compensation commission determine the damages arising from construction of the pipeline.

2. If the board of supervisors by resolution approves the petition, the landowner or

pipeline company shall commence the proceeding by filing an application with the chief judge of the judicial district for the county for the appointment of a compensation commission as provided in [section 6B.4](#). The application shall contain all of the following information:

a. The name and address of the applicant and a description of the land on which the damage is claimed to have occurred.

b. A description of the nature of the damage claimed to have occurred and the amount of the damage claimed.

c. The name and address of the pipeline company claimed to have caused the damage or the name and address of the affected landowner.

3. a. After the commissioners have been appointed, the applicant shall serve notice on the pipeline company or the landowner stating all of the following:

(1) That a compensation commission has been appointed to determine the damages caused by the construction of the pipeline or underground storage facility.

(2) The name and address of the applicant and a description of the land on which the damage is claimed to have occurred.

(3) The date, time, and place when the commissioners will view the premises and proceed to appraise the damages and that the pipeline company or landowner may appear before the commissioners.

b. If more than one landowner petitions the county board of supervisors, the application to the chief judge, notice to the pipeline company, and appraisal of damages shall be consolidated into one application, notice, and appraisal. The county attorney may assist in coordinating the consolidated application and notice, but does not become an attorney for the landowners by doing so.

4. The commissioners shall view the land at the time provided in the notice and assess the damages sustained by the landowner by reason of the construction of the pipeline or underground storage facility and they shall file their report with the sheriff. The appraisal of damages returned by the commissioners is final unless appealed. After the appraisal of damages has been delivered to the sheriff by the compensation commission, the sheriff shall give written notice by ordinary mail to the pipeline company and the landowner of the date the appraisal of damages was made, the amount of the appraisal, and that any interested party may appeal to the district court within thirty days of the date of mailing. The sheriff shall endorse the date of mailing of notice on the original appraisal of damages. At the time of appeal, the appealing party shall give written notice to the adverse party or the party's attorney and the sheriff.

5. [Chapter 6B](#) applies to [this section](#) to the extent it is applicable and consistent with [this section](#).

6. The pipeline company shall pay all costs of the assessment made by the commissioners and reasonable attorney fees and costs incurred by the landowner as determined by the commissioners if the award of the commissioners exceeds one hundred ten percent of the final offer of the pipeline company prior to the determination of damages. The pipeline company shall file with the sheriff an affidavit setting forth the most recent offer made to the landowner. Commissioners shall receive a per diem of fifty dollars and actual and necessary expenses incurred in the performance of their official duties. The pipeline company shall also pay all costs occasioned by the appeal, including reasonable attorney fees to be taxed by the court, unless on the trial of the appeal the same or a lesser amount of damages is awarded than was allowed by the commission from which the appeal was taken.

7. As used in [this section](#), "damages" means compensation for damages to the land, crops, and other personal property caused by the construction of a pipeline and its attendant structures or underground storage facility but does not include compensation for a property interest, and "landowner" includes a farm tenant.

8. The provisions of [this section](#) do not apply if the easement provides for any other means of negotiation or arbitration.

[95 Acts, ch 192, §57, 62; 2000 Acts, ch 1179, §28, 30; 2011 Acts, ch 25, §143; 2018 Acts, ch 1160, §30](#)

Referred to in [§479B.26](#)

479B.31 Subsequent tiling.

All additional costs of new tile construction caused by an existing pipeline or underground storage facility shall be paid by the pipeline company. To receive compensation under [this section](#), the landowner or agent of the landowner shall either present an invoice specifying the additional costs caused by the presence of the pipeline which is accompanied by a written verification of the additional costs by the county engineer or soil and water conservation district conservationist or reach an agreement with the pipeline company on the project design and share of the cost to be paid by the pipeline company during the planning of the tiling project.

[95 Acts, ch 192, §58, 62](#)

Referred to in [§479B.32](#)

479B.32 Reversion on nonuse.

1. If a pipeline right-of-way, or any part of the pipeline right-of-way, is wholly abandoned for pipeline purposes by the relocation of the pipeline, is not used or operated for a period of five consecutive years, or if the construction of the pipeline has been commenced and work has ceased and has not in good faith resumed for five years, the right-of-way may revert as provided in [this section](#) to the person who, at the time of the abandonment or nonuse, is the owner of the tract from which such right-of-way was taken. For purposes of [this section](#), a pipeline or a pipeline right-of-way is not considered abandoned or unused if it is transporting product or is being actively maintained with reasonable anticipation of a future use.

2. To effect a reversion on nonuse of right-of-way, the owner or holder of purported fee title to such real estate shall serve notice upon the owner of such right-of-way easement and, if filed of record, successors in interest and upon any party in possession of the real estate. The written notice shall accurately describe the real estate and easement in question, set out the facts concerning ownership of the fee, ownership of the right-of-way easement, and the period of abandonment or nonuse, and notify the parties that such reversion shall be complete and final, and that the easement or other right shall be forfeited, unless the parties shall, within one hundred twenty days after the completed service of notice, file an affidavit with the county recorder of the county in which the real estate is located disputing the facts contained in the notice.

3. The notice shall be served in the same manner as an original notice under the Iowa rules of civil procedure, except that when notice is served by publication an affidavit shall not be required before publication. If an affidavit disputing the facts contained in the notice is not filed within one hundred twenty days, the party serving the notice may file for record in the office of the county recorder a copy of the notice with proofs of service attached and endorsed, and when so recorded, the record shall be constructive notice to all persons of the abandonment, reversion, and forfeiture of such right-of-way.

4. Upon reversion of the easement, the landowner may require the pipeline company to remove any pipe or pipeline facility remaining on the property. Provisions of [this chapter](#) relating to damages shall apply when the pipeline is removed.

5. Unless otherwise agreed to in writing by the landowner and the pipeline company, if a pipeline right-of-way is abandoned for pipeline use, but the pipe is not removed from the right-of-way, the pipeline company shall remain subject to [section 479B.33](#), shall remain responsible for the additional costs of subsequent tiling as provided for in [section 479B.31](#), shall mark the location of the line in response to a notice of proposed excavation in accordance with [chapter 480](#), and shall remain subject to the damage provisions of [this chapter](#) in the event access to or excavation relating to the pipe is required. The landowner shall provide reasonable access to the pipeline in order to carry out the responsibilities of [this subsection](#).

[99 Acts, ch 85, §9, 11; 2000 Acts, ch 1139, §5](#)

Service of original notice, [R.C.P. 1.302 – 1.315](#)

479B.33 Farmland improvements.

A landowner or contractor may require a representative of the pipeline company to be present on site, at no charge to the landowner, at all times during each phase and separate

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activity related to a farmland improvement within fifty feet of either side of a pipeline. If the pipeline company and the landowner or contractor constructing the farmland improvement mutually agree that a representative of the pipeline company is not required to be present, the requirements of [this section](#) are waived in relation to the farmland improvement which would have otherwise made the requirements of [this section](#) applicable. A farmland improvement includes, but is not limited to, the terracing of farmland and tiling.

[2000 Acts, ch 1139, §6](#)

Referred to in [§479B.32](#)

CHAPTER 9
RESTORATION OF AGRICULTURAL LANDS DURING AND AFTER PIPELINE
CONSTRUCTION

199—9.1(479,479B) General information.

9.1(1) Authority and purpose. The rules in this chapter are adopted by the Iowa utilities board pursuant to the authority granted to the board in Iowa Code sections 479.29 and 479B.20 to establish standards for the restoration of agricultural lands during and after pipeline construction. These rules constitute the minimum standards for restoration of agricultural lands disturbed by pipeline construction. These rules do not apply to land located within city boundaries, unless the land is used for agricultural purposes, or to interstate natural gas pipelines.

When a project-specific land restoration plan is required pursuant to Iowa Code section 479.29(9) or 479B.20(9), following notice and comment, the board may impose additional or more stringent standards as necessary to address issues specific to the nature and location of the particular pipeline project. Where a project-specific land restoration plan is not required pursuant to Iowa Code section 479.29(9) or 479B.20(9), the rules in this chapter shall constitute the minimum land restoration standards for any pipeline construction.

9.1(2) Definitions. The following words and terms, when used in these rules, shall have the meanings indicated below:

“Affected person” means any person with a legal right or interest in the property, including, but not limited to, a landowner, a contract purchaser of record, a person possessing the property under a lease, a record lienholder, and a record encumbrancer of the property.

“Agricultural land” means any land devoted to agricultural use, including, but not limited to, land used for crop production, cleared land capable of being cultivated, hay land, pasture land, managed woodlands and woodlands of commercial value, truck gardens, farmsteads, commercial agricultural-related facilities, feedlots, rangeland, livestock confinement systems, land on which farm buildings are located, and land used to implement management practices and structures for the improvement or conservation of soil, water, air, and related plant and animal resources.

“Board” means the utilities board within the utilities division of the department of commerce.

“County inspector” means a professional engineer who is licensed under Iowa Code chapter 542B, who is familiar with agricultural and environmental inspection requirements, and who is designated by the county board of supervisors to be responsible for completing an on-site inspection for compliance with this chapter and Iowa Code chapters 479 and 479B.

“Drainage structures” or *“underground improvements”* means any permanent structure used for draining agricultural lands, including tile systems and buried terrace outlets.

“Hazardous liquid” means crude oil, refined petroleum products, liquefied petroleum gases, anhydrous ammonia, liquid fertilizers, liquefied carbon dioxide, alcohols, and coal slurries.

“Person” means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity as defined in Iowa Code section 4.1(20).

“Pipeline” means any pipe, pipes, or pipelines used for the transportation or transmission of any solid, liquid, or gaseous substance, except water, or hazardous liquid, within or through Iowa.

“Pipeline company” means any person engaged in or organized for the purpose of owning, operating, or controlling pipelines.

“Pipeline construction” means activity associated with installation, relocation, replacement, removal, or operation or maintenance of a pipeline that disturbs agricultural land, but shall not include work performed during an emergency, tree clearing, or topsoil surveying completed on land under easement with written approval from the landowner. Emergency means a condition involving clear and immediate danger to life, health, or essential services, or a risk of a potentially significant loss of property. When the emergency condition ends, pipeline construction will be in accordance with these rules.

“Proper notice to the county inspector” means that the pipeline company and its contractors shall keep the county inspector continually informed of the work schedule and any changes to the schedule, and shall provide at least 24 hours’ written notice before commencing or continuing any construction activity which requires inspection by the county inspector, including, but not limited to, right-of-way staking, clearing, boring, topsoil removal and stockpiling, trenching, tile marking, tile screening, tile repairs, backfilling, decompaction, cleanup, restoration, or testing at any project location. The pipeline company may request that the county inspector designate a person to receive such notices. If proper notice is given, construction shall not be delayed due to a county inspector’s failure to be present on site.

“Soil conservation practices” means any land conservation practice recognized by federal or state soil conservation agencies, including, but not limited to, grasslands and grassed waterways, hay land planting, pasture, and tree plantings.

“Soil conservation structures” means any permanent structure recognized by federal or state soil conservation agencies, including, but not limited to, toe walls, drop inlets, grade control works, terraces, levees, and farm ponds.

“Surface drains” means any surface drainage system, such as shallow surface field drains, grassed waterways, open ditches, or any other conveyance of surface water.

“Till” means to loosen the soil in preparation for planting or seeding by plowing, chiseling, discing, or similar means. For the purposes of this chapter, agricultural land planted using no-till planting practices is also considered tilled.

“Topsoil” means the uppermost layer of the soil with the darkest color or the highest content of organic matter, generally referred to as the “A” horizon. In areas where the “A” horizon is determined by a certified professional soil scientist to be less than 12 inches, the topsoil depth shall include both the “A” and the “Bw” horizons as determined by the March 2017 United States Department of Agriculture Soil Survey Manual. Topsoil depth is to be determined under the supervision of a certified professional soil scientist.

“Underground storage” means storage of either natural gas or hazardous liquid in a subsurface stratum or formation of the earth.

“Wet conditions” means adverse soil conditions due to rain events, antecedent moisture, or ponded water, where the passage of construction equipment may cause rutting that mixes topsoil and subsoil, may prevent the effective removal or replacement of topsoil and subsoil, may prevent proper decompaction, or may damage underground tile lines.

[ARC 5685C, IAB 6/16/21, effective 7/21/21]

199—9.2(479,479B) Filing of land restoration plans. Pursuant to Iowa Code sections 479.29 and 479B.20, a land restoration plan is required for any pipeline construction that requires a permit from the board and for any proposed amendment to an existing permit that involves pipeline construction, relocation, or replacement. The land restoration plan shall be filed with the appropriate petition and be identified as Exhibit I. For pipelines that do not need a permit from the board and that are constructed across agricultural land, the pipeline company shall have on file with the board a general land restoration plan covering pipelines that do not need a permit from the board.

9.2(1) Content of plan. A land restoration plan shall include, but not be limited to, the following:

- a. A brief description of the purpose and nature of the pipeline construction project.
- b. A description of the sequence of events that will occur during pipeline construction.
- c. A description of how the pipeline company will comply with rules 199—9.4(479,479B) and 199—9.5(479,479B).
- d. The point of contact for landowner inquiries or claims as provided for in rule 199—9.5(479,479B).
- e. A unique identification number that follows a linearly sequential pattern on each parcel of land over which the pipeline will be constructed.

9.2(2) Plan variations. The board may by waiver allow variations from the requirements in this chapter if the pipeline company requesting a waiver is able to satisfy the standards set forth in rule

199—1.3(17A,474,476) and if the alternative methods proposed by the pipeline company would restore the land to a condition as good or better than provided for in this chapter.

9.2(3) *Mitigation plans and agreements.* Preparation of a separate land restoration plan may be waived by the board where a pipeline company enters into an agricultural impact mitigation plan or similar agreement with the appropriate agencies of the state of Iowa that satisfies the requirements of this chapter. If a mitigation plan or agreement is used to fully or partially meet the requirements of a land restoration plan, the statement or agreement shall be filed with the board and shall be considered to be, or to be part of, the land restoration plan for purposes of this chapter.

[ARC 5685C, IAB 6/16/21, effective 7/21/21]

199—9.3(479,479B) Procedure for review of plan.

9.3(1) *Timing.* The board will review the proposed land restoration plan, as established in rule 199—9.2(479,479B), at the same time it reviews the petition. Objections to the proposed plan shall be filed as part of the permit proceeding. The pipeline company shall modify the plan as required by the board.

9.3(2) *Distributing approved plan.* After the board has approved the plan as part of the board's review and approval of the petition, but prior to construction, the pipeline company shall provide copies of the final plan approved by the board to all landowners of property and persons in possession of the property under a lease that will be disturbed by the construction, the county board of supervisors in each county affected by the project, the county engineer of each affected county, and to the county inspector in each affected county.

[ARC 5685C, IAB 6/16/21, effective 7/21/21]

199—9.4(479,479B) Staking and clearing of agricultural land.

9.4(1) *Easement staking.* The pipeline company shall allow the county inspector and the landowner to be present during the staking of the easement. Written notice of the staking shall be provided to the landowner and the county inspector in the same manner as provided for in proper notice to the county inspector. Pipeline construction may not occur until seven days after the easement is staked unless the landowner waives the seven-day period after the easement staking has been completed. If proper notice is given, easement staking shall not be delayed due to a county inspector or landowner's failure to be present on site.

9.4(2) *Trees and brush.* If trees are to be removed from the easement, the pipeline company shall consult with the landowner to determine if there are trees of commercial or other value to the landowner.

a. If there are trees of commercial or other value to the landowner, the pipeline company shall allow the landowner the right to retain ownership of the trees with the disposition of the trees to be negotiated prior to commencement of land clearing, or if the landowner does not want to retain ownership of the trees, the pipeline company shall hire a forester with local expertise to appraise the commercial value of any timber to be cut for construction of the pipeline. The pipeline company shall compensate the landowner for the full appraised commercial value of any timber removed. The pipeline company shall remove all cleared trees and debris left on or adjacent to the easement.

b. If the trees to be cleared have been determined to have no commercial or other value to the landowner and there is no negotiated agreement between the pipeline company and the landowner for the disposition of the trees in advance of clearing of the easement, removal and disposal of the material shall be completed at the discretion of the pipeline company.

9.4(3) *Fencing.* The pipeline company may remove all field fences and gates, located within the pipeline company's easement, during clearing of the easement and may construct temporary fences and gates where necessary. Upon completion of the pipeline construction, the pipeline company shall replace any temporary field fences or gates with permanent field fences or gates. The pipeline company and landowner may negotiate separate agreements regarding field fences and gates. If livestock is present, the pipeline company shall construct any temporary or permanent fences and gates in a manner which will contain livestock.

[ARC 5685C, IAB 6/16/21, effective 7/21/21]

199—9.5(479,479B) Restoration of agricultural lands.**9.5(1) *Topsoil survey.***

a. Prior to the removal of any topsoil, the pipeline company shall direct that a topsoil survey be performed under the supervision of a certified professional soil scientist across the full extent of the easement for any pipeline that requires a board permit. A minimum of three soil depths shall be physically measured in the field at each cross section as follows: (1) one on the left edge of the easement; (2) one at 15 feet of the centerline of the pipeline on the working side of the right-of-way; and (3) one on the right edge of the working easement. Cross sections shall be taken a minimum of every 500 linear feet for the full extent of the easement. Each parcel of land shall have a minimum of two cross sections.

b. The pipeline company shall provide the results of the topsoil survey to the county board of supervisors, county inspector, county engineer, and affected persons at least six weeks prior to commencing construction.

9.5(2) *Topsoil separation and replacement.*

a. Removal. Topsoil removal and replacement in accordance with this rule is required for any open excavation associated with pipeline construction unless otherwise provided in these rules. The actual depth of the topsoil, as determined by a topsoil survey, shall be stripped from the full extent of the easement. Topsoil shall also be removed and replaced in accordance with these rules at any location where land slope or contour is significantly altered to facilitate construction. Topsoil removal shall not occur during wet conditions.

b. Soil storage. The topsoil and subsoil shall be segregated, stockpiled, and preserved separately during subsequent construction operations. The stored topsoil and subsoil shall have sufficient separation to prevent mixing during the storage period. Topsoil shall not be used to construct field entrances or drives, or be otherwise removed from the property, without the written consent of the landowner. Topsoil shall not be stored or stockpiled at locations that will be used as a traveled way by construction equipment without the written consent of the landowner.

c. Stockpile stabilization. Topsoil stockpiles shall be stabilized with seeding and mulch within 14 calendar days of stockpiling. Between October 15 and March 15, soil tackifier shall be used in place of seeding and mulch.

d. Topsoil removal not required. Topsoil removal is not required where the pipeline is installed by plowing, jacking, boring, or other methods that do not require the opening of a trench. If provided for in a written agreement between the pipeline company and the landowner, topsoil removal is not required if the pipeline can be installed in a trench with a top width of 18 inches or less.

e. Backfill. The topsoil and subsoil shall be replaced in the reverse order in which they were excavated from the trench. The depth of the replaced topsoil shall conform as near as possible to the depth of topsoil that was removed. Where excavations are made for road, stream, drainage ditch, or other crossings, the original depth of topsoil shall be replaced as near as possible.

9.5(3) *Pumping of water from open trenches.*

a. In the event it becomes necessary to pump water from open trenches, the pipeline company shall pump the water in a manner that avoids damaging adjacent agricultural land. Damages from pumping water from trenches include, but are not limited to, inundation of crops and depositing of sediment in fields, pastures, and surface drains.

b. If water-related damages result from pumping water from trenches, the pipeline company shall either compensate the landowner for the damages or restore the land, pasture, surface drains, or similar land, to their preconstruction condition, at the landowner's discretion.

c. Written permission from the landowner is required before the pipeline company can pump water from trenches onto land outside of the pipeline company's easement.

d. All pumping of water shall comply with existing state drainage laws, local ordinances, and federal statutes.

9.5(4) *Temporary and permanent repair of drain tile.*

a. Pipeline clearance from drain tile. Where underground drain tile is encountered, the pipeline shall be installed in such a manner that the permanent tile repair can be installed with at least 12 inches of clearance from the pipeline.

b. Temporary repair. The following standards shall be used to determine if temporary repair of agricultural drainage tile lines encountered during pipeline construction is required.

(1) Any underground drain tile damaged, cut, or removed and found to be flowing or which subsequently begins to flow shall be temporarily repaired as soon as practicable, and the repair shall be maintained as necessary to allow for its proper function during construction of the pipeline. The temporary repairs shall be maintained in good condition until permanent repairs are made.

(2) Any underground drain tile damaged, cut, or removed and found to not be flowing shall have the upstream exposed tile line screened or otherwise protected to prevent the entry of foreign material and small animals into the tile system. The downstream tile line entrance shall be capped or filtered to prevent entry of mud or foreign material into the line if water level rises in the trench.

c. Marking. Any underground drain tile damaged, cut, or removed shall be marked by placing a highly visible flag in the trench spoil bank directly over or opposite such tile. This marker shall not be removed until the tile has been permanently repaired and the repairs have been approved and accepted by the county inspector. If proper notice is given, construction shall not be delayed due to an inspector's failure to be present on the site.

d. Permanent repairs. Tile disturbed or damaged by pipeline construction shall be repaired to its original or better condition. Permanent repairs shall be completed within 14 days after the pipeline is installed in the trench and prior to backfilling of the trench over the tile line. The county inspector shall inspect each permanent repair for compliance with this chapter. If proper notice is given, construction shall not be delayed due to a county inspector's failure to be present on site. Permanent repair and replacement of damaged drain tile shall be performed in accordance with the following requirements:

(1) All damaged, broken, or cracked tile shall be removed.

(2) Only unobstructed tile shall be used for replacement.

(3) The tile furnished for replacement purposes shall be of a quality, size, and flow capacity at least equal to that of the tile being replaced.

(4) Tile shall be replaced using a laser transit, or similar instrument or method, to ensure that the tile's proper gradient and alignment are restored, except where relocation or rerouting is required for angled crossings. Tile lines at a sharp angle to the trench shall be repaired in the manner shown on Drawing No. IUB PL-1 at the end of this chapter.

(5) The replaced tile shall be firmly supported to prevent loss of gradient or alignment due to soil settlement. The method used shall be comparable to that shown on Drawing No. IUB PL-1 at the end of this chapter.

e. Inspection. Prior to backfilling of the applicable trench area, each permanent tile repair shall be inspected for compliance by the county inspector. If proper notice is given, construction shall not be delayed due to an inspector's failure to be present on site prior to backfilling.

f. Backfilling. The backfill surrounding the permanently repaired drain tile shall be completed at the time of the repair and in a manner that ensures that any further backfilling will not damage or misalign the repaired section of the tile line. The county inspector shall inspect that backfill for compliance with this chapter. If proper notice is given, construction shall not be delayed due to an inspector's failure to be present on the site.

g. Subsurface drainage. Subsequent to pipeline construction and permanent repair, if it becomes apparent the tile line in the area disturbed by construction is not functioning correctly or that the land adjacent to the pipeline is not draining properly, which can reasonably be attributed to the pipeline construction, the pipeline company shall make further repairs or install additional tile as necessary to restore subsurface drainage.

9.5(5) Removal of rocks and debris from the easement.

a. Removal. The topsoil, when backfilled, and the easement area shall be free of all rock larger than three inches in average diameter not native to the topsoil prior to excavation. Where rocks over three inches in size are present, their size and frequency shall be similar to adjacent soil not disturbed by construction. The top 24 inches of the trench backfill shall not contain rocks in any greater concentration or size than exist in the adjacent natural soils. Consolidated rock removed by blasting or mechanical means shall not be placed in the backfill above the natural bedrock profile or above the frost line. In

addition, the pipeline company shall examine areas adjacent to the easement and along access roads and shall remove any large rocks or debris that may have rolled or blown from the right-of-way or fallen from vehicles.

b. Disposal. Rock that cannot remain in or be used as backfill shall be disposed of at locations and in a manner mutually satisfactory to the company and the landowner. Soil from which excess rock has been removed may be used for backfill. All debris attributable to the pipeline construction and related activities shall be removed and disposed of properly. For the purposes of this rule, debris shall include spilled oil, grease, fuel, or other petroleum or chemical products. Such products and any contaminated soil shall be removed for proper disposal or treated by appropriate in situ remediation.

9.5(6) Restoration after soil compaction and rutting.

a. Agricultural restoration. Agricultural land, including off right-of-way access roads traversed by heavy construction equipment that will be removed, shall be deep tilled to alleviate soil compaction upon completion of construction on the property. If the topsoil was removed from the area to be tilled, the tillage shall precede replacement of the topsoil. At least three passes with the deep tillage equipment shall be made. Tillage shall be at least 18 inches deep in land used for crop production and 12 inches deep on other lands and shall be performed under soil moisture conditions that result in a maximum standard penetration test (SPT) reading of 300 psi pursuant to ASTM D1586-11 performed by a qualified person. Decomposition shall not occur in wet conditions. Upon agreement, this tillage may be performed by the landowners or tenants using their own equipment.

b. Rutted land restoration. Rutted land shall be graded and tilled until restored as near as practical to its preconstruction condition. Rutting shall be remedied before any topsoil that was removed is replaced.

9.5(7) Restoration of terraces, waterways, and other erosion control structures. Existing soil conservation practices and structures damaged by the construction of a pipeline shall be restored to the elevation and grade existing prior to the time of pipeline construction. Any drain tiles or flow diversion devices impacted by pipeline construction shall be repaired or modified as needed. Soil used to repair embankments intended to retain water shall be well compacted. Disturbed vegetation shall be reestablished, including a cover crop when appropriate. Restoration of terraces shall be in accordance with Drawing No. IUB PL-2 at the end of this chapter. The county inspector shall inspect restoration of terraces, waterways, and other erosion control structures for compliance with this chapter. If proper notice is given, construction shall not be delayed due to an inspector's failure to be present on the site.

9.5(8) Revegetation of untilled land.

a. Crop production. Agricultural land not in row crop or small grain production at the time of construction, including hay ground and land in conservation or set-aside programs, shall be reseeded, including use of a cover crop when appropriate, following completion of deep tillage and replacement of the topsoil. The seed mix used shall restore the original or a comparable ground cover unless otherwise requested by the landowner. If the land is to be placed in crop production the following year, paragraph 9.5(9) "b" shall apply.

b. Delayed crop production. Agricultural land used for row crop or small grain production which will not be planted in that calendar year due to the pipeline construction shall be seeded with an appropriate cover crop following replacement of the topsoil and completion of deep tillage. However, cover crop seeding may be delayed if construction is completed too late in the year for a cover crop to become established and in such instances is not required if the landowner or tenant proposes to till the land the following year. The landowner may request ground cover where the construction is completed too late in the year for a cover crop to become established to prevent soil erosion.

c. Weed control. On any easement, including, but not limited to, construction easements and easements relating to valve sites, metering stations, and compression stations, the pipeline company shall provide for weed control in a manner that prevents the spread of weeds onto adjacent lands used for agricultural purposes. Spraying shall be done by a pesticide applicator that is appropriately licensed for spraying of pesticide in Iowa. If the pipeline company fails to control weeds within 45 days after

receiving written notice from the landowner, the pipeline company shall be responsible for reimbursing all reasonable costs of weed control incurred by owners of adjacent land.

9.5(9) *Future installation of drain tile or soil conservation practices and structures.*

a. Future drain tile. The pipeline company shall consult with affected persons regarding plans for future drain tile installation. Where an affected person provides the pipeline company with written plans prepared by a qualified tile technician for future drain tile improvements before an easement is secured, the pipeline shall be installed at a depth which will allow proper clearance between the pipeline and the proposed future tile installation.

b. Future practices and structures. The pipeline company shall consult with any affected person's plans for future use or installation of soil conservation practices or structures. Where an affected person provides the pipeline company with a design for such practice or structure prepared by a qualified technician before an easement is secured, the pipeline shall be installed at a depth that will allow for future installation of the planned soil conservation practice or structure and that will retain the integrity of the pipeline.

9.5(10) *Restoration of land slope and contour.* Upon completion of construction, the slope, contour, grade, and drainage pattern of the disturbed area shall be restored as near as possible to its preconstruction condition. However, the trench may be crowned to allow for anticipated settlement of the backfill. Excessive or insufficient settlement of the trench area, which visibly affects land contour or undesirably alters surface drainage, shall be remediated by the pipeline company by means such as regrading and, if necessary, import of appropriate fill material. Disturbed areas in which erosion causes formation of rills or channels, or areas of heavy sediment deposition, shall be regraded as needed. On steep slopes, methods such as sediment barriers, slope breakers, or mulching shall be used as necessary to control erosion until vegetation can be reestablished. The county inspector shall inspect restoration of land slope and contour for compliance with this chapter.

9.5(11) *Restoration of areas used for field entrances or temporary roads.* Upon completion of construction and land restoration, field entrances or temporary roads built as part of the construction project shall be removed and the land made suitable for return to its previous use. Areas affected shall be regraded as required by subrule 9.5(10) and deep tilled as required by subrule 9.5(6). If by agreement, or at landowner request, and subject to any necessary approval by local public road authorities, a field entrance or road is to be left in place, it shall be left in a graded and serviceable condition. The county inspector shall inspect restoration of areas used for field entrances or temporary roads for compliance with this chapter.

9.5(12) *Construction in wet conditions.* The county inspector, in consultation with the pipeline company and the landowner or person in possession of the land pursuant to a lease, if present, shall determine when construction should not proceed in a given area due to wet conditions. The county inspector shall have the sole authority to determine whether construction should be halted due to wet conditions. Construction in wet soil conditions shall not commence or continue at times when or locations where the passage of heavy construction equipment may cause rutting to the extent that the topsoil and subsoil are mixed or underground drainage structures may be damaged. To facilitate construction in wet soils, the pipeline company may elect to remove and stockpile the topsoil from the traveled way, install mats or padding, or use other methods acceptable to the county inspector. Topsoil removal, storage, and replacement shall comply with subrule 9.5(2).

9.5(13) *Access to land.* Nothing in this rule shall prohibit a landowner or person in possession of the land pursuant to a lease from having access to the property. A landowner or person in possession of the land pursuant to a lease shall not disrupt ongoing construction and shall not compromise the safety considerations of the construction. A landowner or person in possession of the land pursuant to a lease shall abide by any and all safety instructions established by the pipeline company during construction.

[ARC 5685C, IAB 6/16/21, effective 7/21/21]

199—9.6(479,479B) Designation of a pipeline company point of contact for landowner inquiries or claims.

9.6(1) For each pipeline construction project subject to this chapter, the pipeline company shall designate a point of contact for inquiries or claims from affected persons. The designation shall include the name of an individual to contact and a toll-free telephone number, an email address, and an address through which that person can be reached. The pipeline company shall also provide the name of and contact information for the county inspector. This information shall be provided to all affected persons prior to commencement of construction. Any change in the point of contact shall be promptly communicated in writing to affected persons. A designated point of contact shall remain available for all affected persons for at least one year following project completion and for affected persons with unresolved damage claims until such time as those claims are settled.

9.6(2) If requested by an affected person, any notice required to be given to the county inspector shall also be given to the affected person.

[ARC 5685C, IAB 6/16/21, effective 7/21/21]

199—9.7(479,479B) Separate agreements. This chapter does not preclude the application of provisions for protecting or restoring property that are different from those contained in this chapter, or in a land restoration plan, which are contained in easements or other agreements independently executed by the pipeline company and the landowner. The alternative provision shall not be inconsistent with state law or these rules. The agreement shall be in writing, and the pipeline company shall provide a copy to the county inspector and the board.

[ARC 5685C, IAB 6/16/21, effective 7/21/21]

199—9.8(479,479B) Notice of violation and halting construction.

9.8(1) Notice of violation. If the county inspector identifies a violation of the standards adopted in this chapter, Iowa Code section 479.29 or 479B.20, or a separate agreement between the pipeline company and the landowner, the county inspector shall give verbal notice, followed by written notice, to the pipeline company and the pipeline company's contractor and require the pipeline company to take corrective action.

9.8(2) Halting construction. A county inspector may temporarily halt construction at the location of the dispute if construction is not in compliance with the standards adopted in this chapter, the land restoration plan, or the terms of an independent agreement between the pipeline company and landowner regarding land restoration or line location until the county inspector consults with a supervisor of the pipeline company or contractor. If, after consultation with a supervisor of the pipeline company or contractor, agreement on corrective action to address the violation cannot be reached, the county inspector may submit a request to the county board of supervisors for resolution of the issue. Construction may not resume at the disputed location either (1) until the county inspector and supervisor of the pipeline company reach an agreement on a resolution or (2) where the board of supervisors has been contacted, until the board of supervisors has responded or after one business day after contact by the county inspector. If a resolution is not reached, construction may continue; however, the pipeline company will be responsible for any damages or for correcting any violation.

[ARC 5685C, IAB 6/16/21, effective 7/21/21]

199—9.9(479,479B) Enforcement. A pipeline company shall fully cooperate with county inspectors in the performance of their duties under Iowa Code sections 479.29 and 479B.20, including giving proper notice before staking, clearing, boring, topsoil removal and stockpiling, trenching, tile marking, silt screening, tile repair or backfilling, decompaction, cleanup, restoration, or testing of any easement. The pipeline company shall pay the reasonable costs for any work provided during the pipeline construction by the county inspector. If the pipeline company or its contractor does not comply with the requirements of Iowa Code section 479.29 or 479B.20, with the land restoration plan, or with an independent agreement on land restoration or line location, the county board of supervisors may petition the utilities board for an order requiring corrective action to be taken. The county board of supervisors may also file a complaint with the board seeking imposition of civil penalties.

[ARC 5685C, IAB 6/16/21, effective 7/21/21]

199—9.10(479,479B) Project completion. The county inspector for each county affected by the pipeline project shall recommend to the county board of supervisors that the pipeline project be considered complete upon completion of restoration of all affected agricultural lands and 70 percent growth is established in locations requiring seeding after receiving written notification by the pipeline company to the same effect. The county board of supervisors shall determine whether the project is completed.

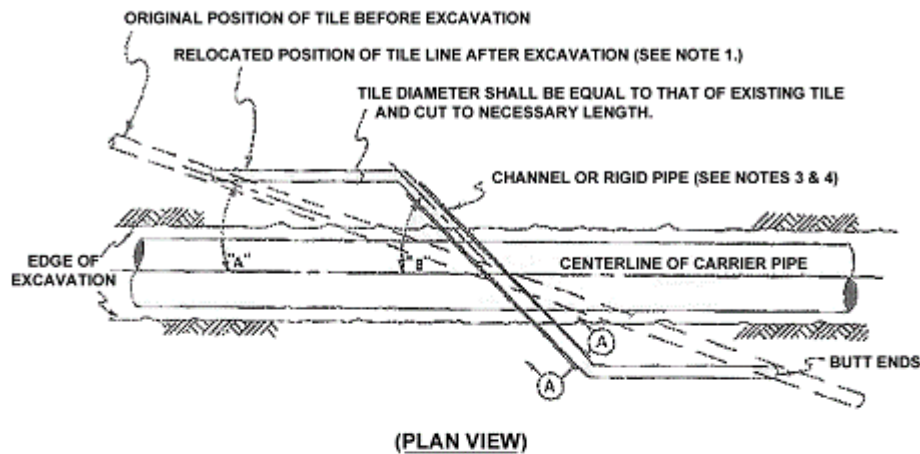
[ARC 5685C, IAB 6/16/21, effective 7/21/21]

199—9.11(479,479B) Document submittal. Once a project is completed, project documents shall be submitted as follows:

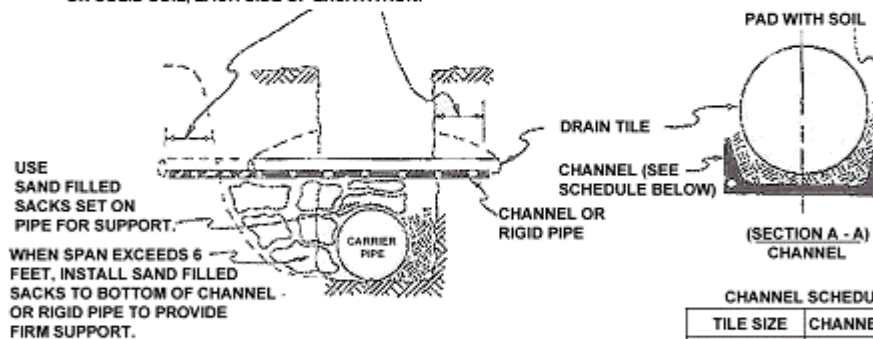
9.11(1) Document turnover. The county inspector shall submit to the county board of supervisors and the pipeline company copies of inspection reports; tile reports and maps; punch lists; notice of violation documents; decompaction agreements; separate agreements, including those that excuse the pipeline company from certain construction responsibilities; and landowner agreements. The documents shall also be available for inspection by the board or an affected person upon request.

9.11(2) As-built drawings. The pipeline company shall provide the county inspector and affected landowners with copies of pipe alignment as-built drawings and underground drain tile as-built drawings, including the Global Positioning System location of drain tile.

Drawing No. IUB PL-1

RESTORATION OF DRAIN TILE

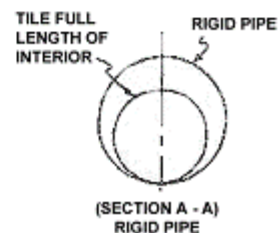
20" MINIMUM LENGTH OF CHANNEL OR RIGID PIPE SUPPORT ON SOLID SOIL, EACH SIDE OF EXCAVATION.

**(METHOD OF SUPPORT -- ELEVATION)****CHANNEL SCHEDULE**

TILE SIZE	CHANNEL SIZE
3"	4" AT 5.4#
4" - 5"	5" AT 6.7#
6" - 9"	7" AT 9.8#
10" & LARGER	10" AT 15.3#

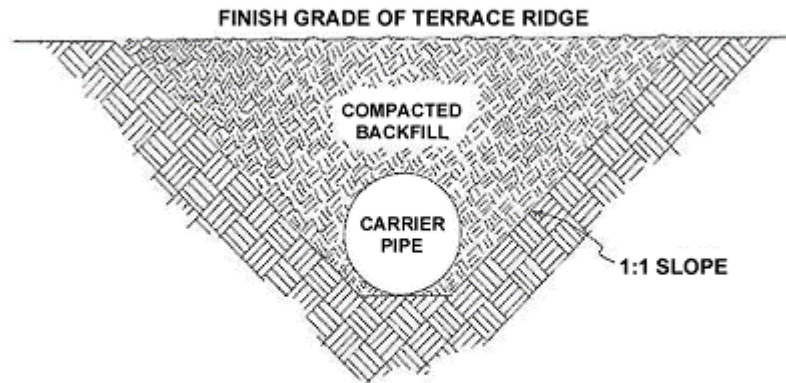
NOTES:

1. TILE SHALL BE RELOCATED AS SHOWN WHEN ANGLE "A" BETWEEN PIPELINE AND ORIGINAL TILE IS LESS THAN 20° UNLESS OTHERWISE AGREED TO BY LANDOWNER AND COMPANY.
2. ANGLE "B" SHALL BE 45° FOR USUAL WIDTHS OF TRENCH. FOR EXTRA WIDTHS, IT MAY BE GREATER.
3. DIAMETER OF RIGID PIPE SHALL BE OF ADEQUATE SIZE TO ALLOW FOR THE INSTALLATION OF THE TILE FOR THE FULL LENGTH OF THE RIGID PIPE.
4. OTHER METHODS OF SUPPORTING DRAIN TILE MAY BE USED IF THE ALTERNATE PROPOSED IS EQUIVALENT IN STRENGTH TO THE CHANNEL SECTIONS SHOWN AND IF APPROVED BY THE LANDOWNER.



Drawing No. IUB PL-2

RESTORATION OF TERRACE



NOTE:

COMPACTION OF BACKFILL TO BE EQUAL TO THAT OF THE UNDISTURBED ADJACENT SOIL.

IUB PL-2

[ARC 5685C, IAB 6/16/21, effective 7/21/21]

These rules are intended to implement Iowa Code sections 479.29 and 479B.20.

[Filed 1/4/80, Notice 10/17/79—published 1/23/80, effective 2/27/80]

[Filed 4/23/82, Notice 11/25/81—published 5/12/82, effective 6/16/82]

[Filed emergency 9/18/86—published 10/8/86, effective 9/18/86]

[Filed 2/1/91, Notice 6/27/90—published 3/6/91, effective 4/10/91]

[Filed 10/31/97, Notice 5/7/97—published 11/19/97, effective 12/24/97]

[Filed 1/18/01, Notice 6/14/00—published 2/7/01, effective 3/14/01]

[Filed 7/18/01, Notice 6/13/01—published 8/8/01, effective 9/12/01]

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FREQUENTLY ASKED QUESTIONS ABOUT EMINENT DOMAIN

The government has the power to take private property for public use (so long as it pays for it). This power is called “**eminent domain**.” The government can allow other entities to exercise this power. The Iowa Legislature has assigned to the Iowa Utilities Board the authority to grant certain persons the power of eminent domain for things like electric transmission lines and underground pipelines. Here are some answers to frequently asked questions about that process.¹

What is the “power of eminent domain” and where does it come from?

Generally, eminent domain is the government’s power to take private property for public benefit. It comes from the US Constitution, federal laws, state constitutions, and state laws.

The IUB’s authority to grant the power of eminent domain comes from Iowa Code chapters 476A, 478, 479, and 479B. Chapter 476A is for electric power generating plants, chapter 478 for electric transmission lines, chapter 479 for intrastate natural gas pipelines, and chapter 479B for hazardous liquids pipelines.

Telephone and telegraph companies are granted the power of eminent domain by statute, Iowa Code section 477.4.

What does the term “condemnation” mean?

The formal process of taking private property for public benefit is called condemnation.

Can the power of eminent domain be exercised for just any purpose?

No. Generally, eminent domain can only be used to take private property:

- (a) For **public ownership** (like a park or a highway);
- (b) For **private ownership that serves public use** (like a railroad or energy or communications facilities that are regulated as common carriers); and
- (c) In some situations, for private ownership that serves a public purpose (like urban renewal projects or to provide a way to get to property that is otherwise inaccessible).

The courts have determined that a taking must be “rationally related to a conceivable public purpose” to be upheld. Eminent domain cannot be used to take property from one person purely in order to favor another person.

Further, property can be taken by eminent domain only to the extent it is necessary to serve the identified public purpose.

Is eminent domain restricted to public utilities or can anyone be granted that power?

The IUB’s statutes allow the IUB to grant the power of eminent domain to any “person” who successfully applies for a generating plant certificate, electric line franchise, or pipeline permit. The person does not have to be a public utility as defined by law, but the project must serve a public purpose.

¹ These FAQs are general and do not address some of the specific, detailed differences in the various statutes that give the IUB the authority to grant eminent domain. You should review the specific statutes applicable to your situation before relying on these FAQs.

How does the IUB's process work?

There are minor differences in the processes used for certificates, franchises, and permits, but generally speaking, when an applicant requests the power of eminent domain for a pipeline or transmission line, the process starts with public informational meetings in each county that will be affected by the project. Notice of the meeting is mailed to every landowner and tenant who might be affected and is also published in newspapers in the area.

After the informational meetings are held, the application is filed and reviewed by IUB staff. When the application is substantially complete, if it still includes a request for eminent domain, the matter is set for hearing by the IUB (or its administrative law judge) to receive evidence and argument on the need for the project, the proposed route, and the specific rights the applicant seeks to condemn. Ultimately, the IUB decides whether the applicant will be allowed to exercise eminent domain and, if so, exactly what rights can be condemned.

It is important to note that the IUB only decides whether an applicant can use the power of eminent domain; the IUB does not determine the value of the property that is being condemned. That is done by a county compensation commission, as described below.

If the IUB issues a certificate, permit, or franchise, does it automatically include the power of eminent domain?

No. While the statutes typically provide that a certificate, permit, or franchise includes the power of eminent domain, it is only included to the extent the IUB finds is necessary for a public use and only for those properties where it is required.

Can all rights and title to my property be condemned?

In most cases no. Electric transmission lines and pipelines are typically allowed to condemn only an easement, meaning the title to the property stays with the owner and that owner can continue to use the property in any way that does not interfere with the easement. The law allows an applicant to seek eminent domain authority to condemn all rights and title to a piece of land for an installation like an electric substation or a pipeline pumping station, but that request has rarely been made.

What is an easement?

An easement is an interest in land that grants specific rights to a party other than the owner. In the case of a typical utility easement, this generally includes the right to build a facility like an electric transmission line or a pipeline, as well as the right to enter the property for maintenance and repairs. However, an easement agreement can include a number of different terms; be sure to carefully read and review any easement agreement offered by the utility company.

Can my property be taken without paying for it?

No. The Fifth Amendment of the United States Constitution and Article I, Section 19, of the Iowa Constitution expressly prohibit any taking of private property for public use without just compensation.

Can a utility condemn my property without trying to negotiate a voluntary deal first?

The law requires, and the IUB expects, all applicants to make a good faith effort to negotiate voluntary easements. Condemnation should be a last resort. In practice, utilities prefer negotiated easements anyway; the costs and delays associated with condemnation can be significant and a negotiated easement often results in a better long-term relationship between the utility and the landowner.

If an entity is given the power of eminent domain, can it use it on any property?

No. It can only be used for the specific parcels that the applicant has identified. The applicant must provide a legal description of each specific property for which it seeks the power of eminent domain along with a description of the specific easement rights it is seeking. The IUB then decides whether each easement is necessary to serve a public purpose and no more extensive than necessary.

How is the value of the condemned property interest determined?

That process is governed by Iowa Code chapter 6B. Generally speaking, each county has a compensation commission made up of persons having knowledge of property values in that county (property owners, real estate brokers, bankers, and appraisers, for example) who determine the fair market value of the property interest (typically an easement) that is being acquired. That determination, or “appraisement of damages,” can be appealed to the district court, where it is tried as an ordinary case.

If I have any questions about eminent domain, can I hire an attorney?

The IUB staff can provide assistance with IUB’s process and hearing procedures, but they cannot provide legal assistance or advice. The rights set out in this packet and the Statement of Landowner’s Rights are not a full and complete list or explanation of a landowner’s rights under condemnation law. For a more thorough understanding of landowner’s rights, you should refer to the Iowa Code. If you have any questions about your rights, you may contact an attorney of your choice to explain those rights to you or assist you in negotiating a potential easement agreement.

Filing an Objection, Letter of Support, or Comment in an Open Docket

To file an objection, letter of support, or provide a comment, you can access the Iowa Utilities Board's (IUB) Open Docket Comment Form directly at <https://iub.iowa.gov/online-services/open-docket-comment-form>. You may also go to iub.iowa.gov and select "File a Comment or Objection in an Open Docket" from the Quick Links options. If you are unable to file electronically, you may mail your written comments or objections to: Iowa Utilities Board, 1375 E. Court Ave, Des Moines, IA 50319. For additional assistance, please call the IUB's IT Support desk at 515-725-7337.

1. Complete the online form by selecting the specific docket where you wish to file your comments.
2. Your form will be sent to the IUB Customer Service department. Customer Service will upload your comments into the IUB's electronic filing system (efs.iowa.gov).
3. Within 48 hours you should receive an email confirming your submission. Your comments will be available to the public and served upon all members of the service list for this particular docket.
4. If a valid email is provided, your name, email, and address will be added to the service list for the docket selected.
5. As a reminder, any information submitted is subject to the Iowa Open Records Act and will be available for public viewing and inspection.

Filing in a Docket via EFS

1. If you wish to participate in a docket by intervening, you will be required to register and file directly in EFS.
2. Go to efs.iowa.gov and review "EFS Quick Filing Guide – Registered Users."

Need help? Contact ITsupport@iub.iowa.gov or (515) 725-7337



Iowa Utilities Board
1375 East Court Avenue
Des Moines, IA 50319-0069

Email: iub@iub.iowa.gov



Pipeline Informational Meeting Agenda

- What is the Iowa Utilities Board?
- Office of Consumer Advocate (OCA)
- Summary of Permit Process and Legal Rights of Landowners (*IUB Presentation*)
- Project Information (*Summit Carbon Solutions Presentation*)
- Question-and-Answer Session

Your Information Handout Includes:

- Agenda
- The IUB's Informational Meeting Presentation
- Statement of Property Owner's Rights
- Filing Instructions for IUB's Electronic Filing System
- Iowa Code Chapter 479B
- 199 Iowa Administrative Code Chapter 9
- Frequently Asked Questions about Eminent Domain

What is the Iowa Utilities Board?

- Independent Quasi-Judicial Regulatory Body
- Three Board Members
 - Serve staggered six-year terms
 - No more than two from the same political party
 - Appointed by the Governor
 - Confirmed by the Senate
- Current Board Members are:
 - Geri Huser (Chair)
 - Richard Lozier
 - Josh Byrnes

What is the Iowa Utilities Board?

- The Board regulates the rates, safety, and service of utility companies. It is also charged with issuing permits for various types of energy infrastructure projects under Iowa law.
- Decisions are based on evidence and the law.
- Board actions may be reviewed by the courts.

Office of Consumer Advocate (OCA)

- The Office of Consumer Advocate is a division of the Iowa Department of Justice.
- OCA represents the general interests of consumers and the public in all matters brought before the IUB.
- For more information, see the sheet provided in your information handout.

Permit Process

- Before a company can file a petition for a permit, it is required to hold an informational meeting.
- The company cannot negotiate any easements with landowners until the informational meeting has been held.
- A company files a petition for a permit with the IUB to build, operate, and maintain a hazardous liquid pipeline.

Permit Process

- After the petition is filed, the IUB holds a public hearing to evaluate the proposed pipeline. Notice of the hearing will be published for two consecutive weeks.
- At the hearing, the IUB hears evidence in favor of or opposing the proposed pipeline.

Comments

- Any affected landowner may file comments either for or against the proposed pipeline as part of the IUB's review process.
- Phone calls or verbal communication will not be considered as part of the official record.
- Only written comments will be considered.

Comments

- Reference docket number **HLP-2021-0001** in your comment letters.
- Comments may be filed at any time in the docket.

Easements (Right-of-Way)

- An easement agreement is a legal document that provides rights to a company to locate a pipeline on private property.
- An easement does not transfer ownership of the property.
- Landowners may contact an attorney of their choice to assist in the negotiation of easement terms.
- An easement may be either voluntary or obtained through the use of eminent domain.
- Prior to obtaining an easement, the company may enter on land for surveying purposes, after giving ten days' written notice to the landowner. The company must pay for any damages resulting from surveying.

Eminent Domain (Condemnation)

- The right of eminent domain may only be granted by the IUB after a public hearing.
- Notice of the IUB hearing will be sent by the company through certified mail to landowners and parties in possession of property for which eminent domain is requested.
- If the IUB grants eminent domain, the company may obtain easement rights after a compensation proceeding.

Eminent Domain (Condemnation)

- The County Compensation Commission under Iowa Code chapter 6B determines just compensation for property rights taken by eminent domain. The IUB does not determine compensation.
- FAQs about eminent domain are included in your handout.

Statement of Property Owner's Rights

The Statement of Property Owner's Rights pursuant to Chapter 34 of the Iowa Attorney General's rules is the green sheet in the information handout.

Agricultural Land Restoration/ County Inspector

- The IUB has adopted rules regarding the restoration of agricultural land during and after pipeline construction in 199 Iowa Administrative Code chapter 9. A copy of chapter 9 is in your handout material.
- The company will be required to submit a land restoration plan when it files its petition. The plan must comply with the requirements in chapter 9.
- Landowners will be able to view the plan in the IUB's filing system and file comments regarding the plan.

Agricultural Land Restoration/ County Inspector

- As part of its decision in the case, the IUB will approve or require modifications to the land restoration plan. The IUB may impose additional land restoration requirements based on the specific details of the project.
- Landowners can negotiate their own restoration agreements with the company, but the terms must be consistent with the IUB's rules and must be in writing.
- The county Board of Supervisors will appoint a county inspector to inspect the construction of the pipeline for compliance with the approved restoration plan or with any negotiated restoration agreements.

Agricultural Land Restoration/ County Inspector

- The company is required to provide the name of the county inspector to all affected landowners prior to commencement of construction.
- The county inspector may temporarily halt construction if the company is not in compliance with the land restoration plan.
- If the company continues to violate the land restoration plan, the county Board of Supervisors may petition the IUB for corrective action and civil penalties.

Damages

- The company is required to pay for actual property damage caused by construction or maintenance of a pipeline.
- Damages are considered different, and separate from, easement payments.
- The company is required to designate a person to receive inquiries or damage claims from landowners.
- Damage claims are received and decided by a county compensation committee after the county Board of Supervisors has declared construction to be complete.
- The company may include a provision in the easement agreement addressing damage settlement procedures.

Safety Inspections

- Hazardous liquid pipelines are inspected by the federal Pipeline and Hazardous Materials Safety Administration (PHMSA).
- Website: [phmsa.dot.gov](https://www.phmsa.dot.gov)

Contact Information

Iowa Utilities Board
1375 East Court Avenue
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Tel: 515-725-7300

Email: iub@iub.iowa.gov

Website: iub.iowa.gov